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SENATE

{ REPORT
No. 1887

REV. A. E. SMITH

JUNE 27, 1952.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany S. 2373]

The Committee on the Judiciary, to which was referred the bill (S. 2373) for the relief of the Reverend A. E. Smith, having considered the same, reports favorably thereon, without amendment, and recommends that the bill do pass.

PURPOSE

The purpose of the proposed legislation is to provide for payment of the sum of \$1,706.40 to Rev. A. E. Smith, of Bismarck, N. Dak., in full satisfaction of all claims against the United States for reimbursement for custom duties paid upon the importation of stained glass windows for use in St. George's Church in Bismarck, N. Dak.

STATEMENT

The Reverend A. E. Smith is rector of St. George's Episcopal Memorial Church in Bismarck. On behalf of his church, claimant entered into negotiations with the firm of Barton, Kinder & Alderson, of Brighton, England, for stained glass windows to be installed in St. George's Church. Pursuant to these negotiations, an importation of stained glass windows was made by claimant. The importation was entered at Minneapolis, Minn., under consumption entry No. 0425, dated February 4, 1949.

The consular invoice showed a value in English money of £3:6:3 per square foot, the value of this amount of English money changed into United States currency being \$13.25.

Stained or painted window glass or stained or painted glass windows which are works of art, when imported to be used in a house of worship,

valued at \$15 or more per square foot, are free of custom duties under paragraph 1810, Tariff Act of 1930. The Treasury Department held that the importation by claimant was of a value less than \$15 per square foot which removed the importation from the free provisions of paragraph 1810 and brought the merchandise under paragraph 230 of the Tariff Act which, at the time of importation, carried a 40 percent ad valorem rate of duty for stained or painted glass windows, and parts thereof, not specially provided for. Because of this determination by the Treasury Department, the Reverend A. E. Smith was assessed the sum of \$1,706.40 as customs duties properly accrued under the law.

The Treasury Department opposes enactment of this legislation on the ground that the customs duties were properly assessed under the law.

The Department of Justice concurs in the adverse report of the Treasury Department.

The committee is not in agreement with the adverse reports of the Treasury and Justice Departments. Evidence presented to this committee indicates that the Reverend Smith acted in good faith upon representations made by the British firm that the value of the stained glass windows was substantially in excess of \$15 per square foot, but that the British firm being anxious to secure additional business in this country and establish a market for their products was making an offer for the sale of such glass at substantially less than its actual value. The committee is of the opinion that the Reverend Smith was induced to import the windows from this firm, because the value was in excess of \$15 per square foot and actually of a value of \$22 per square foot. Further, the price quoted to the church was \$15 per square foot, the English firm using a pound conversion at the rate of £3:6:3. The English figure was converted to the American equivalent of \$13.25 due to devaluation of the pound.

The committee agrees that the statute should ordinarily apply to all alike. However, it is evident that a mistake occurred by reason of the exchange rate, and the church in good faith believed that the windows had a value in excess of the statutory minimum and therefore would be imported duty-free.

The committee therefore recommends that this bill be favorably considered on the ground that St. George's Church should not be penalized for a mistake made in good faith.

A number of affidavits have been submitted in behalf of claimant and are on file with the committee.

Attached to this report and made a part hereof are reports of the Treasury Department and the Department of Justice submitted in connection with this bill.

TREASURY DEPARTMENT,
Washington, April 11, 1952.

Hon. A. DEVITT VANECH,
Deputy Attorney General,
Department of Justice.

MY DEAR MR. VANECH: Reference is made to your letter of January 17, 1952 asking for comments on S. 2373, a bill for the relief of the Reverend A. E. Smith. The bill proposed that the Reverend Smith be paid the sum of \$1,706 40 for reimbursement for customs duties paid on an importation of stained glass windows for use in Saint George's Church in Bismarck, N. Dak.

An importation of stained glass windows was made by the Reverend A. E. Smith for the church of which he is rector. The importation was entered at Minneapolis, Minn., under consumption entry No. 0425 dated February 4 1949. Stained or painted window glass or stained or painted glass windows which are works of art when imported to be used in a house of worship, valued at \$15 or more per square foot are free of customs duties under paragraph 1810, Tariff Act of 1930.

The importation by the Reverend Smith was of a value less than \$15 per square foot which removed the importation from the free provisions of paragraph 1810 and brought the merchandise under paragraph 230 of the Tariff Act which, at the time of importation, carried a 40-percent ad valorem rate of duty for stained or painted glass windows, and parts thereof, not specially provided for.

Since the amount of \$1,706.40 assessed on the importation represents customs duties which properly accrued under the law, this Department cannot recommend favorable action on the bill.

Very truly yours,

JOHN S. GRAHAM,
Acting Secretary of the Treasury.

DEPARTMENT OF JUSTICE,
Washington, D. C., May 1, 1952.

HON. PAT McCARRAN,
*Chairman, Committee on the Judiciary,
United States Senate, Washington, D. C.*

MY DEAR SENATOR: This is in response to your request for the views of the Department of Justice concerning the bill (S. 2373) for the relief of the Reverend A. E. Smith.

The bill would provide for payment of the sum of \$1,706.40 to Rev. A. E. Smith, of Bismarck, N. Dak., in full satisfaction of all claims against the United States for reimbursement for custom duties paid upon the importation of stained glass windows for use in Saint George's Church in Bismarck, N. Dak.

In compliance with your request, a report was obtained from the Treasury Department concerning this legislation. According to that report, which is enclosed, it appears that the importation in question was entered at Minneapolis, Minn., on February 4, 1949. Under the applicable section of the custom laws (par. 1810, Tariff Act of 1930), stained or painted glass windows which are works of art and valued at \$15 or more per square foot, when imported to be used in a house of worship, are free of custom duties. The stained glass windows imported by Reverend Smith were of a value less than \$15 per square foot, which removed them from the free provisions of the foregoing section and brought them under paragraph 230 of the Tariff Act, which at the time of importation carried a 40 percent ad valorem rate of duty for stained or painted glass windows, and parts thereof, not specially provided for.

The Treasury Department states that since the amount of \$1,706.40 assessed on the importation represents customs duties which properly accrued under the law, it cannot recommend favorable action on the bill.

From the facts in this case, it would appear that because the stained glass windows imported were not of sufficient value to come within the free provision of the applicable statute, the regular customs duties were assessed against them. In the light of these facts, no reason appears why an exception to the general applicability of the statute should be made in this case. Moreover, no reason appears why claimant did not appeal from the assessment made, as provided in such statutes, if he considered the assessment to be incorrect.

To except one individual or organization from the general purview of the law while requiring all others similarly situated to observe the requirements of such statute, would appear to be most inequitable.

For these reasons, the Department of Justice concurs in the adverse recommendation of the Treasury Department.

The Bureau of the Budget has advised this office that there would be no objection to the submission of this report.

Sincerely,

A. DEVITT VANECH,
Deputy Attorney General.

